

Ann L. Trowbridge
atrowbridge@downeybrand.com

01-AFC-17

April 16, 2003

CALIF ENERGY COMMISSION

Mr. Jim Bartridge, Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, California 95814-5512

APR 16 2003

RECEIVED IN DOCKETS

Re: Inland Empire Energy Center (Docket No. 01-AFC-17): Response to April 1, 2003
Letter from Romoland School District to California Energy Commission

Dear Mr Bartridge

Inland Empire Energy Center, LLC (IEEC, LLC) appreciates the opportunity to respond to the Romoland School District's (RSD) most recent letter. In its April 1 submittal, RSD continues to seek payment as mitigation to address unsubstantiated assertions that the proposed Inland Empire Energy Center (IEEC) will result in impacts that preclude RSD from siting a new school at the Ashby Site and may necessitate relocation of the existing Romoland Elementary School.

RSD's position is without merit; over the past year-and-a-half, IEEC, LLC has refuted every allegation RSD has brought to bear. At the same time, IEEC, LLC has continued to work in good faith with RSD to get to the bottom of its concerns regarding the proposed project and look for ways to help the RSD address what appears to be the fundamental issue -- an overall need, unrelated to the proposed IEEC, for more funds.

IEEC, LLC also has diligently pursued discussions with the Redevelopment Agency for the County of Riverside (RDA) to identify RDA's planning efforts and funding projects, including RSD's potential share of the tax increment that would be created by the IEEC, LLC. IEEC, LLC has also communicated with the Riverside County School Superintendent. We provide a brief summary of those efforts here.

Following the Informational Hearing in Perris in January 2002, IEEC, LLC met with RSD representatives on February 22, 2002. In March 2002, IEEC, LLC arranged a meeting between RSD, the RDA and IEEC, LLC. On June 12, 2002, IEEC, LLC met with RSD to discuss potential sources of funding that could become available through the RDA should the IEEC project proceed. IEEC, LLC met with the RDA on September 26, 2002 to continue discussions regarding the potential for funding for RSD through the substantial new tax increment that will result from the proposed project. IEEC, LLC met with Riverside County School Superintendent,

David Long, on November 19, 2002 to further explore the availability of public funds for RSD's activities. IEEC, LLC has had every intention of continuing this work as the project moves forward. In sum, IEEC, LLC has willingly made every effort to understand RSD's concerns about funding *and* work with RSD to explore opportunities to maximize its access to substantial local funds provided through tax and related payments that will be made available by the proposed project, and other fund sources. RSD's most recent letter should not be read without an understanding of IEEC, LLC's consistent efforts.

As mentioned above, IEEC, LLC has previously responded in detail to and effectively rebutted each of RSD's many unsubstantiated claims regarding potential project impacts. We do not repeat our arguments here, but note that the relevant documents are in the Docket of this proceeding.¹ We urge the Commission to continue its careful evaluation of potential project impacts, consistent with its CEQA-equivalent responsibilities. IEEC, LLC remains confident that the Commission will not find any impact that warrants the payments demanded by RSD.

In addition, we want to clarify two points raised by RSD in its April 1, 2003 letter. In the last paragraph on page 2, RSD states, referring to IEEC, LLC's Data Response No. 178, that "the District has no idea where Calpine got the idea that the District planned at some point in time to locate a school within the area depicted in the attachment to that letter as a retention basin (the so-called 'Ashby 2')."

In fact, as IEEC, LLC has indicated previously, we were able to make that conclusion based on detailed information supplied by RSD. At the January 30, 2002 Informational Hearing, Roland Skumawitz, Superintendent, RSD, provided a map for the record depicting the "Ashby School Site" as 900 feet from the proposed project.² Mr. Skumawitz also described the "Ashby School Site:" "That site is 900 feet from the proposed power plant."³ On May 13, 2002, RSD submitted a data response that included materials depicting the "Ashby School Site" as 900 feet from the proposed project. (IEEC, LLC has labeled this site "Ashby Site 2.") In that same data response, RSD *also* provided information regarding *another* Ashby Site located further away from the project site (labeled Ashby Site 1 by IEEC, LLC) with characteristics more appropriate for a proposed school when compared to Ashby Site 2.⁴

IEEC, LLC submitted detailed maps as part of its Data Response No. 178 applying the Ashby Site 2 and Ashby Site 1 information taken directly from maps submitted by RSD at the January

¹ See, e.g., Letter from Ann L. Trowbridge, Downey Brand LLP, to County of Riverside, December 13, 2001, Letter from Greg Lamberg, Calpine Corporation, to RSD, January 7, 2002, and Letter from Ann L. Trowbridge, Downey Brand LLP, to County of Riverside, February 20, 2002, and IEEC, LLC Data Responses.

² This map is already part of the record of this proceeding; if staff would like another copy, IEEC, LLC would be pleased to supply one.

³ Tr., January 30, 2002, p. 53 (Skumawitz).

⁴ As described in IEEC, LLC's Data Response No. 178, Ashby Site 2 is 5 acres in size, Ashby Site 1 is 15; Ashby Site 2 is in a flood plain, Ashby Site 1 is not; Ashby Site 2 has not been graded; Ashby Site 1 has.

30, 2002 Informational Hearing and in its May 13, 2002 data response. The maps prepared by IEEC, LLC demonstrate that the information provided by the RSD clearly describes two different Ashby sites; RSD has made no attempt to clarify the inconsistent information it has provided. Further, the site that has been designated Ashby Site 1 by IEEC, LLC is the site that the California Department of Education reviewed and ranked preliminarily as a "1" (the highest possible score).

Next, RSD relies on a letter from its consultant, The Planning Center, which states at page 1 that "using the description of the IEEC project site as depicted in the AFC and PSA, as well as using our Geographic Information System (GIS), we calculated the distance between the IEEC facility and Ashby School site to be 1,566 feet, \pm 1 foot." In our Data Response No. 178, we indicated that Ashby Site 1 "is in excess of 1700 feet from the IEEC project property line." For clarification, IEEC, LLC notes that this estimate is based on the distance between the IEEC project site, excluding 160 feet along the southern boundary of the IEEC property that has been reserved for a future drainage ditch, and the Ashby Site 1 property line. (The 160 foot set-aside is shown on Figure 3.3-1 of the AFC.) We would be pleased to review this information further with the CEC to ensure all parties are comparing "apples to apples" for purposes of distance calculations. What we want to emphasize here is that *under both approaches, Ashby Site 1 is located outside of all of the school siting special consideration zones associated with the proposed IEEC project.*⁵ Further, under both approaches, Ashby Site 1 is also well outside the quarter-mile area that triggers the air district consultation requirement under the *School Site Selection and Approval Guide* (prepared by the School Facilities Planning Division, California Department of Education).⁶

Finally, it is worth pointing out that, contrary to RSD's assertions, the CEC has neither approved nor denied IEEC, LLC's AFC.⁷ Many steps remain before even a draft decision will be issued. While IEEC, LLC hopes that the record that is developed ultimately supports issuance of a certificate authorizing development of the IEEC, RSD's arguments based on its prejudgment of the outcome of this case should be disregarded.

⁵ Figure 3, Data Response No. 178. About 3 acres of the northern portion of Ashby Site 1 fall within 1500 feet of the existing recycled water pipeline and, therefore, would require a risk assessment pursuant to the California Department of Education's guidelines.

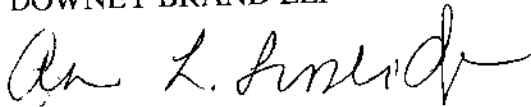
⁶ IEEC, LLC has prepared a risk assessment which finds (as did the CEC in the PSA) that there is no significant risk associated with the proposed project.

⁷ See, e.g. page 2 of RSD's letter, where RSD refers to "what appears to be the eventual and inevitable construction of the IEEC;" and page 3, where RSD state that it lost the Ashby School "as a direct and immediate consequence of the IEEC's siting decision."

Again, IEEC, LLC appreciates this opportunity to respond to RSD's most recent letter. Please do not hesitate to contact me or Jenifer Morris if you have any questions or require additional information.

Very truly yours,

DOWNEY BRAND LLP



Ann L. Trowbridge

ALT:mel

cc: Mr. Robert Pernell, Presiding Member, CEC
Mr. James D. Boyd, Associate Member, CEC
Major Williams, Hearing Officer, CEC
Mr. Roland Skumawitz, Superintendent, RSD
Mr. Fred Good, Ed. D.
Inland Empire Energy Center Service List

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